



## CITY OF DANBURY

155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

ZONING COMMISSION  
(203) 797-4525  
(203) 797-4586 (FAX)

### MINUTES MARCH 14, 2006

=====

The meeting was called to order by Chairman Jack Knapp Jr. at 7:30 PM.

Present were Anthony DiCaprio, Ted Farah, Theodore Haddad Jr., Helen Hoffstaetter, Richard P. Jowdy, Donald Kennedy, Jack H. Knapp, Robert Melillo and Alternate Victoria Hickey.

Absent were Theresa Buzaid and Alternates Jean Anderson & Joseph Notaro, Jr.

Chairman Knapp led the Commission in the Pledge of Allegiance.

Mr. Melillo made a motion to accept the minutes from the February 28, 2006 meeting. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

=====

#### PUBLIC HEARING:

7:30 PM – Petition of Global Estate LLC dba TSR's Wines & Liquors, 25 Mill Plain Rd. (#E15025) for Special Permit for Package Store.

Chairman Knapp read the legal notice into the record. Attorney Fran Collins spoke in favor of this petition. He said that Tony Randhawa is a principal in this corporation and submitted a letter detailing his qualifications. This was designated Exhibit A. He also submitted a statement of the LLC, which was designated Exhibit B. He said for many years, the site was used by Paul Rullo as his real estate office. The only access to the site is from Watson Lane and that is not going to change. He said this site is over half a mile from Mill Plain Package Store, which is in excess of 3,000 ft.. He said the package store would not have a detrimental effect on the area and no adverse traffic conditions would be created. It would be compatible with surrounding area. Mr. Jowdy asked who owns the property now and Attorney Collins said the applicant does. Mr. DiCaprio asked if the real estate office will be gone and Attorney Collins said yes, the applicant will be utilizing the entire site for the business. Mr. Haddad asked if they will use the existing structure and Attorney Collins said they will be putting a small addition on it. Mr. Haddad then asked if we regulate the type of structures to be used for the sale of liquor and Attorney Collins said the Regulations do not prohibit this type of conversion and that will be addressed during the site plan review. Mr. Jowdy asked how many package store licenses are left and Attorney Collins said there is only one available at this time.

Chairman Knapp asked if there was anyone to speak in opposition and one person came forward. Attorney Terry Sachs, 27 Mill Plain Rd. said he owns a business condo unit across from this site.

He said he is representing himself and the other three owners. He told the Commission that this zone was created to limit traffic and ensure traffic safety and approval of this would significantly impact the traffic in this area. He said Watson Dr currently is very close to the traffic light in front of the 7-11 and there is significant traffic congestion. He said approval of this will change the volume of traffic on Watson Dr. and will have a detrimental effect on the public safety and the immediate neighborhood. He said there is an old deed restriction from 1929 that limits the use of the property although it is located in a commercial zone. He added that there are three liquor stores within a half mile: Mill Plain Package Store, Mill Ridge Package Store and the Stop & Shop which sells beer. He submitted the copy of the deed and it was designated Exhibit C.

Attorney Collins then spoke in rebuttal. He said the purpose of the zone it was to limit traffic not to eliminate it. There is going to be congestion and neighborhood traffic because of the nature of the area, but that will be addressed during site plan review. He said the deed restriction on the use has not been enforced, and this site has been used as commercial for years.

Mr. DiCaprio made a motion to close the public hearing. Mr. Jowdy seconded the motion and it was passed unanimously by voice vote. Mr. Jowdy expressed concern that since none of the neighbors are here, maybe the notices were not sent out correctly. The secretary showed him the list that was submitted with this petition and said that the notices were sent out and none were returned by the Post Office. Mr. Jowdy then questioned why the list was so short and the secretary explained that according to Sec. 10.I.4.b. of the Zoning Regulations, the requirement is that notice be sent to "all owners of land included within, adjacent to, or across the street" from the boundaries of the proposed petition or application.

=====

OLD BUSINESS:

Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 3.C.2. & 4.A.7. of the Zoning Regulations. (Deer Hill Avenue Overlay Zone). *Public hearing closed February 28, 2006. DECISION MUST BE MADE BY MAY 3, 2006.*

Chairman Knapp said that eligible to vote on this are Mr. DiCaprio, Mr. Farah, Mr. Haddad, Ms. Hoffstaetter, Mr. Jowdy, Mr. Kennedy, Mr. Melillo, Ms. Hickey and himself. He added that Mrs. Buzaid and Mrs. Anderson had abstained from this matter and Mr. Notaro was not present at either of the public hearings. He asked Ms. Hickey to take Mrs. Buzaid's place for this matter. He asked for a motion to start the discussion. Mr. Farah made a motion to approve this petition for the following reasons:

- 1) It is consistent with Plan of Conservation & Development (POCD), because it will protect the residential neighborhood and improve housing design. And it will ensure that the Regulations are compatible with historic preservation goals.
- 2) The Planning Commission supported this petition by giving it a positive recommendation.
- 3) The proposed Overlay zone recognizes the unique qualities and historic character of the residential neighborhood. It will promote and preserve development that is compatible with the character of the neighborhood.

Mr. DiCaprio seconded the motion and Chairman Knapp asked for discussion. Mr. Haddad said he loves the petition and thinks it is terrific but is concerned about the fact that this issue is also the subject of pending litigation. There was no other discussion. Chairman Knapp called a roll call vote and the motion to approve was passed with seven AYES (from Mr. DiCaprio, Mr. Farah, Ms. Hoffstaetter, Mr. Kennedy, Mr. Melillo, Ms. Hickey and Chairman Knapp) and two NAYS (from Mr. Haddad and Mr. Jowdy).

=====

Mr. DiCaprio made a motion to move the petition they had heard this evening to number two under the Old Business on tonight's agenda. Mr. Kennedy seconded the motion.

Petition of Global Estate LLC dba TSR's Wines & Liquors, 25 Mill Plain Rd. (#E15025) for Special Permit for Package Store.

Chairman Knapp asked for a motion so they could start the discussion of this matter. Mr. DiCaprio made a motion to approve this petition for the following reasons:

- The proximity of such premises will not have a detrimental effect on any church, school, convent or charitable institution. Nor will it have a detrimental effect on the immediate neighborhood concerned, due consideration having been given to the character of the surrounding neighborhood.

Mr. Farah seconded the motion and Chairman Knapp asked for comments from the Commission members. Mr. Jowdy asked if traffic is a good reason to vote no. He also questioned if the notice requirements were complied with and suggested that maybe the neighbors did not know about this proposal. He added that the Commission should care about this even if the neighbors don't. Ms. Hoffstaetter said she also has concerns about the traffic because this already is a problematic situation. Mr. Elpern pointed out that the next step for this is to submit for site plan approval. Mr. DiCaprio said this is a terrible site and they might possibly need off-road parking. Ms. Hoffstaetter asked if they would be setting a precedent by allowing a commercial use on a private road.

Mr. Elpern then reminded the Commission that this zone allows for a wide range of commercial uses, so something will be put there. He said with regard to comments about traffic, Mill Plain Rd. has been identified as a problem in the new Transportation Plan. He said if this petition is turned down, something else will go in that that might not come before them. Mr. Melillo reiterated the traffic concerns and asked about the 1929 deed restriction that Attorney Sachs had submitted. Mr. Elpern assured him that deed restrictions are only enforceable for twenty years. They can be renewed but this one was not. Mr. Elpern then suggested that they add a condition that the size of the store will not exceed 2000 gross sq.ft. in area. Mr. DiCaprio amended his motion and Mr. Farah also amended his second to include the condition that the gross size of this package store is not to exceed 2,000 sq.ft. in area. Chairman Knapp called a roll call vote and the motion to approve with condition was passed with seven AYES (from Mr. DiCaprio, Mr. Farah, Mr. Haddad, Ms. Hoffstaetter, Mr. Kennedy, Mr. Melillo and Chairman Knapp) and two NAYS (from Mr. Jowdy & Ms. Hickey).

=====

Chairman Knapp noted that the New Business consisted of one petition which is scheduled for public hearing on April 11, 2006. The secretary mentioned that there was a special permit petition that had come in and they would be hearing that on March 28, 2006.

He then said that there were two Cease & Desist Orders listed under Correspondence and nothing under For Reference Only.

At 9:00 PM, Mr. Melillo made a motion to adjourn. Ms. Hickey seconded the motion.